

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Timothy Joseph McKinney, #294063,
a/k/a Timothy Joseph McKinney, #287844

Plaintiff,

v.

Spartanburg County Detention Center,
Spartanburg County, and Sheriff Chuck
Wright,

Defendants.

Case No. 4:23-cv-196-RMG

ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that the case should be dismissed without prejudice, without leave to amend, and without issuance and service of process. (Dkt. No. 13). Plaintiff was given notice of his right to file objections to the R & R within 14 days of service and that failure to timely file specific written objections would waive the right to file an appeal of the judgment of the District Court based upon the R & R. (*Id.* at 6). Plaintiff has filed no objections to the R & R.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where the plaintiff fails to file any specific objections, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in

order to accept the recommendation.” *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted).

Plaintiff, a pretrial detainee, makes general, conclusory allegations that his conditions of confinement violated his rights under the First, Fifth, Sixth, Eighth and Fourteenth Amendments. The Magistrate Judge found that the allegations failed to state a claim upon which relief can be granted. (Dkt. No. 13 at 3-5). Plaintiff further made a general allegation that he has been denied access to the courts. The Magistrate Judge found that the Plaintiff’s allegations failed to set forth a level of specificity to set forth a plausible constitutional claim. (*Id.* at 4-5). Finally, the Magistrate Judge recommended the dismissal of the claims against Defendant Spartanburg County under the Eleventh Amendment and dismissal of the claims against Defendant Spartanburg County Detention Center because this defendant is not a “person” subject to § 1983 liability. (*Id.* at 4).

After reviewing the full record in this matter, the Court finds the Magistrate Judge ably addressed the issues presented and correctly concluded that this action should be dismissed without prejudice, without leave to amend, and without issuance or service of process. The Court adopts the R & R (Dkt. No. 13) as the order of the Court and dismisses this action without prejudice.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
United States District Judge

March 22, 2023
Charleston, South Carolina